

S-5252

1 Amend the amendment, S-5236, to House File 2465,
2 as amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 54, after line 23 by inserting:

5 <DIVISION _____
6 USE OF FORCE

7 Sec. _____. Section 704.1, Code 2011, is amended to
8 read as follows:

9 **704.1 Reasonable force.**

10 1. "Reasonable force" means that force and no
11 more which a reasonable person, in like circumstances,
12 would judge to be necessary to prevent an injury or
13 loss and can include deadly force if it is reasonable
14 to believe that such force is necessary to avoid injury
15 or risk to one's life or safety or the life or safety
16 of another, or it is reasonable to believe that such
17 force is necessary to resist a like force or threat.

18 2. Reasonable force, including deadly force, may
19 be used even if an alternative course of action is
20 available if the alternative entails a risk to life
21 or safety, or the life or safety of a third party, or
22 requires one to abandon or retreat from one's dwelling
23 or place of business or employment.

24 3. A person may be wrong in the estimation of the
25 danger or the force necessary to repel the danger as
26 long as there is a reasonable basis for the belief
27 of the person and the person acts reasonably in the
28 response to that belief.

29 4. A person who is not engaged in illegal activity
30 has no duty to retreat from any place where the person
31 is lawfully present before using force as specified in
32 this chapter. A finder of fact shall not be permitted
33 to consider the possibility of retreat as a factor in
34 determining whether or not a person who used force
35 reasonably believed that the force was necessary to
36 prevent injury, loss, or risk to life or safety.

37 Sec. _____. Section 704.2, Code 2011, is amended by
38 adding the following new unnumbered paragraph:

39 **NEW UNNUMBERED PARAGRAPH.** A threat to cause serious
40 injury or death, by the production, display, or
41 brandishing of a deadly weapon, is not deadly force,
42 as long as the actions of the person are limited to
43 creating an expectation that the person may use deadly
44 force to defend oneself, another, or as otherwise
45 authorized by law.

46 Sec. _____. **NEW SECTION. 704.2A Justifiable use of**
47 **deadly force.**

48 1. For purposes of this chapter, a person is
49 presumed to reasonably believe that deadly force is
50 necessary to avoid injury or risk to one's life or

1 safety or the life or safety of another in either of
2 the following circumstances:

3 a. The person against whom force is used, at the
4 time the force is used, is doing any of the following:

5 (1) Unlawfully entering by force or stealth, or
6 has unlawfully entered by force or stealth and remains
7 within the dwelling, place of business or employment,
8 or occupied vehicle of the person using force.

9 (2) Unlawfully removing or is attempting to
10 unlawfully remove another person against the other
11 person's will from the dwelling, place of business or
12 employment, or occupied vehicle of the person using
13 force.

14 b. The person using force knows or has reason
15 to believe that any of the conditions set forth in
16 paragraph "a" are occurring or have occurred.

17 2. The presumption set forth in subsection 1 does
18 not apply if, at the time force is used, any of the
19 following circumstances are present:

20 a. The person using defensive force is engaged
21 in a criminal offense, is attempting to escape from
22 the scene of a criminal offense that the person has
23 committed, or is using the dwelling, place of business
24 or employment, or occupied vehicle to further a
25 criminal offense.

26 b. The person sought to be removed is a child or
27 grandchild or is otherwise in the lawful custody or
28 under the lawful guardianship of the person against
29 whom force is used.

30 c. The person against whom force is used is a
31 peace officer who has entered or is attempting to
32 enter a dwelling, place of business or employment, or
33 occupied vehicle in the lawful performance of the peace
34 officer's official duties, and the person using force
35 knows or reasonably should know that the person who has
36 entered or is attempting to enter is a peace officer.

37 d. The person against whom the force is used has
38 the right to be in, or is a lawful resident of, the
39 dwelling, place of business or employment, or occupied
40 vehicle of the person using force, and a protective or
41 no-contact order is not in effect against the person
42 against whom the force is used.

43 Sec. _____. Section 704.3, Code 2011, is amended to
44 read as follows:

45 **704.3 Defense of self or another.**

46 A person is justified in the use of reasonable force
47 when the person reasonably believes that such force is
48 necessary to defend oneself or another from any actual
49 or imminent use of unlawful force.

50 Sec. _____. NEW SECTION. **704.4A Immunity for**

1 justifiable use of force.

2 1. As used in this section, "*criminal prosecution*"
3 means arrest, detention, charging, or prosecution.

4 2. A person who uses reasonable force pursuant
5 to this chapter shall be immune from any criminal
6 prosecution or civil action for using such force.

7 3. A law enforcement agency may use standard
8 investigating procedures for investigating the use of
9 force, but the law enforcement agency shall not arrest
10 a person for using force unless the law enforcement
11 agency determines there is probable cause that the
12 force was unlawful under this chapter.

13 4. The court shall award reasonable attorney fees,
14 court costs, compensation for loss of income, and all
15 expenses incurred by the defendant in defense of any
16 civil action brought by the plaintiff if the court
17 finds that the defendant is immune from prosecution as
18 provided in subsection 2.

19 Sec. _____. Section 704.7, Code 2011, is amended to
20 read as follows:

21 **704.7 Resisting foreible violent felony.**

22 1. As used in this section, "*violent felony*" means
23 any felonious sexual abuse involving compulsion or
24 the use of a weapon or any felonious assault, murder,
25 kidnapping, robbery, arson, or burglary.

26 2. A person who ~~knows~~ reasonably believes that a
27 ~~foreible violent felony~~ is being or will imminently
28 be perpetrated is justified in using, ~~against the~~
29 ~~perpetrator,~~ reasonable force, including deadly force
30 against the perpetrator or perpetrators, to prevent the
31 ~~completion of~~ or terminate the perpetration of that
32 felony.

33 Sec. _____. REPEAL. Section 707.6, Code 2011, is
34 repealed.>

35 2. By renumbering as necessary.

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